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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Biennial Regulatory Review -)
Amendment of Parts 0, 1, 13, 22,)
24, 26, 27, 80, 87, 90, 95, 97, and)
101 of the Commission's Rules to)
Facilitate the Development and Use)
of the Universal Licensing System)
in the Wireless Telecommunications)
Services.)

WT Docket No. 98-20

To: The Commission

Comments of Radiofone, Inc.

Radiofone, Inc. (Radiofone), by its attorneys and pursuant to Section 1.415(a) of the Commission's Rules, hereby submits its comments in the above captioned proceeding.

Interest of Radiofone

Radiofone is a licensee in the Part 22 Land Mobile, Part 90 Land Mobile, and Part 101 fixed microwave services. Radiofone applauds the Commission's efforts to make its application processing more efficient so that applicants will be able receive more timely grants of their applications, and will have greater access to licensing information. However, as a provider of paging, cellular telephone and other commercial mobile radio services, Radiofone is concerned that certain aspects of the Commission's proposal will place undue burdens on Radiofone and other licensees in the wireless services.

Mandatory Electronic Filing May Be Premature

Radiofone is concerned that the Commission's proposed January 1, 1999 mandatory implementation electronic filing may be premature. Instead, Radiofone supports retention of a paper filing option for the foreseeable future, until electronic filing in the Universal Licensing System (ULS) is perfected and there is 100 percent certainty that any lost data can be easily and accurately recaptured by the Commission without placing additional burdens on the public. Radiofone fears that any application which is filed electronically could ultimately

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be lost forever if the Commission's ULS license database becomes corrupted, either through hardware failure, erroneous programming, hacking, or a future conversion to a new computer system when the current software or hardware for ULS becomes obsolete and is ultimately replaced. Radiofone notes that the Commission has previously experienced serious computer problems in connection with its Public Land Mobile license database which resulted in the loss of technical data. This data had to be reconstructed through the industry's tedious location and resubmission of engineering from paper copies of old applications. Additionally, Radiofone understands that the Wireless Telecommunications Bureau's Microwave Section is unable to issue instruments of authority for license transfers and assignments due to a malfunctioning computer system. Thus, history shows that the Commission's ability to accurately and permanently protect the licensing data submitted to it electronically is problematic at best.

There have been problems with the Commission's electronic short-form auction application software, as well as issues with respect to using ULS to complete the long-form applications for the 800 MHz SMR and LMDS auctions. From these experiences, it appears, at the outset, electronic filing is fraught with technological issues. Additionally, just to access ULS, it appears that substantial financial burdens will be imposed on both large and small companies alike, in order to maintain most current computer technology necessary to ensure compatibility with the current version of the ULS system. In this regard, it appears that only certain versions of Netscape and Microsoft's Internet Explorer are fully compatible with the ULS system, as it was designed for the LMDS auction.¹ Further, ULS has apparently not yet been tested with Microsoft's Windows 98 (which is scheduled for final release in June, 1998). This operating system will be installed on most

¹ The use of earlier versions of Microsoft's Internet Explorer provided applicants with the mistaken impression that long-form auction applications (FCC Form 601 and attached exhibits) had been successfully submitted to the Commission electronically, when in point of fact only the Form 601 application was transmitted.

computers manufactured after July 1, 1998; it is thus uncertain that these new computers will be compatible with the Commission's ULS software.

Additionally, there are issues regarding the capability of computers operating on local area networks to dial into the Commission's wide-area network. Most medium and large businesses' computer systems are local area network (LAN) based, and as such, these work stations may not be able to communicate with ULS without the use of a dedicated modem and telephone line for each computer work station that would be used to prepare and make FCC filings. This additional cost could be substantial for most businesses.

As a by-product of mandatory electronic filings, Radiofone is concerned that it may not be able to obtain a complete proof of filing copy of its application or other filing, or in the event that the data file containing its electronic filing is corrupted, that the Commission will not accept a paper proof of filing copy as evidence of timely electronic filing. Radiofone has learned that during the submission period for the short-form applications in the 800 MHz SMR auction, applicants experienced problems transmitting their attached exhibits, even though the exhibits had purportedly been properly formatted as ASCII text files and submitted (as evidenced by the proof-of-filing copy provided by the Commission's electronic application software).² However, when the Commission announced that those certain applications were incomplete due to the non-receipt of attached exhibits, the Commission refused to accept the proof-of-filing copy of the application as evidence of timely submission, and required the applicants to resubmit their applications electronically even though there was no guarantee that the applicants would not experience the same problem with the Commission's application software.

² It appears that an intermittent software glitch prevented the Commission's computer system from recognizing certain ASCII text files with a file extension other than .TXT. This slight change, in an otherwise correctly formatted application could have prevented a qualified applicant from participating in the auction.

Electronic Filing of Pleadings and Other Documents Should be Facilitated on an Optional Basis

The Commission has likewise proposed that pleadings associated with applications be filed electronically. Radiofone supports electronic filing as an option, but feels that the capability to make paper filings must be retained. Radiofone is concerned that this electronic filing will not be practicable for pleadings that require other documents as exhibits, or statements under penalty of perjury. Radiofone notes that many small and medium sized businesses are not be able to afford the equipment necessary to make legible digital copies of documents which can then be attached to their electronic pleading as an exhibit, prior to filing. Additionally, where a filer does not have access to such digital imaging hardware, Radiofone is uncertain as to how such a certification made by the proponent's principal would be signed (e.g., as in Petitions to Deny). Until these issues are resolved, and the equipment is readily available to the public at reasonable cost, the Commission must continue to accept pleadings on paper, in accordance with its current rules.

Transactional Applications Should Be Expedited

Radiofone supports the use of ULS for the filing and processing of license assignment and transfer of control applications. It is important that such transactional applications be processed separate from facilities applications. If ULS can properly distinguish between transactional applications and facilities applications, such that transactions are promptly listed on public notice as accepted for filing (where required) and processed to grant without delay, Radiofone believes that the ability of the business community to implement beneficial business arrangements in a timely fashion will be greatly enhanced.

ULS Must Allow Preview Copies of Electronic Filings

Many wireless licensees like Radiofone utilize telecommunications departments, engineering consultants and/or outside counsel for the preparation of filings with the FCC.

Because these filings are prepared on the basis of information provided by the filer to preparers who do not possess first-hand knowledge, it is essential that ULS have the capability of permitting the preparer to obtain a "preview copy" of the filing prior to making the actual filing itself. In this way, the proposed filing can then be reviewed by the applicant, and if in order, dated and signed. With the applicant's approval, the preparer could then legitimately insert the name of the individual who signed the preview copy of the filing, and file it electronically with the Commission, with the confidence that the electronic filing of the application has been authorized by the applicant. Without the ability to print a preview copy of the application (which option was available with the Commission's Form 175 electronic software, but not with the ULS auction long-form applications), there is no effective way for the preparer of a filing to ensure that what the applicant has approved is precisely what is electronically filed.³

Electronic Notices to Licensees Should be Backed Up By Paper

For the above reasons, Radiofone opposes the use of electronic mail (E-Mail) as the sole means for official correspondence between the FCC and its licensees and applicants. While Radiofone acknowledges that E-Mail can be convenient and efficient for certain purposes, Radiofone is nonetheless concerned that an E-Mail message may not be delivered due to incompatibilities with the FCC's internet service provider and its computer system. Radiofone and others have experienced situations where it believed that E-Mail had been delivered, only to discover that the intended recipient did not receive the E-Mail message for whatever reason. Additionally, even if the E-Mail message is successfully delivered into the intended recipient's box, there is no certainty that the recipient will be aware of the message when he logs into his computer, unless he affirmatively goes out to the internet. Further, if

³ In the case of the long-form applications filed electronically in the LMDS auction, it was necessary to prepare a paper version of the application which included the exhibits, and once signed by the applicant, re-enter the data on the Form 601 into the ULS system.

the intended recipient is not available (e.g., due to vacation, sickness, travel, or otherwise), no other individual would be aware of the E-Mail message, since most internet/E-Mail accounts are password protected. In this regard, the employee responsible for FCC filings may leave the Company or be reassigned, and valuable license rights may be lost while their successor learns about FCC requirements and realizes the FCC E-mails must be re-routed. For these reasons, Radiofone urges the FCC to continue the practice of using the U.S. postal service or other reliable delivery service for official correspondence, although telecopier and E-mail would be acceptable as a backup.

Confidential Electronic Filings Must Be Protected

As proposed, the Commission's ULS application forms provide for the protection of confidential information. Radiofone, having been previously victimized by the Commission's previous release of confidential information over the internet in connection with auctions of broadband personal communications service spectrum, is deeply concerned that ULS may not provide adequate protections to prevent an inadvertent disclosure of confidential information. In order to allay any fears of an inadvertent compromise, Radiofone urges the Commission to disclose its procedures to protect such information.

Conversion to NAD83

Radiofone supports the FCC's proposal to require that geographic coordinates be given in NAD83, rather than NAD27. However, in order to facilitate a smooth transition, Radiofone urges the Commission to convert all coordinates in its license database to NAD83, much like it did when it made the conversion from feet and inches to meters, and then indicate on the face of the authorization that all coordinates are shown in NAD83. These precautions should ensure that the data in the Commission's license database and tower database is accurate. Radiofone also recommends that the Commission adopt a transition period of not less than one year, so that the public will be able to properly transition to NAD83. Further, for any tower registration certificates, Radiofone

recommends that they be issued showing both the NAD27 and NAD83 geographic coordinates. In this way, those licensees with licensing records in NAD27 will be able to (i) verify the accuracy of their information, and (ii) ensure a proper conversion to NAD83 in future filings.

Antenna Data Should Not Be Eliminated

Radiofone opposes the Commission's proposal to eliminate the requirement for applicants in the Part 22 mobile services to submit make and model number of their antenna. The Commission's theory appears to be that under the new rules for geographic area licensing, such information will be unnecessary, and at first blush, may be a good idea. However, it is not clear that FCC Form 601 will provide enough information for an incumbent licensee on the lower band frequencies to modify its station and be sure that it is fully protected by the co-channel licensee auction winner. Conversely, the reduced antenna information may make it more difficult for the auction winner to ensure that an incumbent co-channel licensee is staying within its authorized contours. In this regard, Schedule J to FCC Form 601 elicits information about the beam width of a directional antenna, as well as effective radiated power (ERP) and height above average terrain (HAAT) along the eight cardinal radials; but only for fixed stations and not base stations.⁴ This information should also be required for base stations.

The Commission Should Not Impose a Thirty Day Reporting Deadline for Permissive Modifications

The Commission has proposed to require licensees desiring interference protection for permissive modifications to report such modifications within 30 days of implementation. Currently, licensees are not required to notify the Commission of such modifications, unless they desire interference protection. Radiofone submits that the Commission's proposed 30-

⁴ Under the Commission's current rules, fixed stations refers to transmitters that communicate with other fixed stations, e.g., control stations. Base stations refers to transmitters that communicate with mobile receivers (e.g., cellular telephones, pager receivers, etc.) and fixed stations (e.g., rural subscriber stations).

day deadline is unnecessary given that licensees are not permitted to increase their composite interference contour. Rather, if a licensee desires specific protection for a particular facility (as opposed to its composite interference contour) it should be allowed to make the appropriate filing, at its convenience. By imposing a 30-day filing requirement, the Commission is adding a trap that if inadvertently tripped, could result in the loss of interference protection to an otherwise legitimate radio facility that is providing a necessary service to the public. Such a result would be contrary to the public interest. Instead, the Commission should recognize that its licensees are not prejudiced, and its resources are not taxed, by virtue of the fact that a permissive filing is made more than 30 days after the fact.

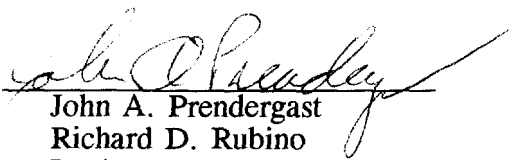
Conclusion

In light of the foregoing, it is respectfully requested that the Commission delay implementation of mandatory electronic filings, ensure that it is possible to make preview copies of electronic filings prior to filing, take affirmative steps to ensure confidentiality of electronic filings, where requested, use paper mailings for official correspondence with licensees, take steps to ensure a smooth transition from NAD27 to NAD83, retain the requirement to provide full antenna information for the Part 22 public mobile services, retain the Commission's current rules regarding the filing of permissive modifications, and process transactional applications as rapidly as possible.

Respectfully submitted,

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